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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,835	06/27/2003	Kazuhiro Nakamura	KAS-184	4821
7590 07/14/2008 MATTINGLY, STANGER & MALUR, P.C. Suite 370 1800 Diagonal Road Alexandria, VA 22314				
EXAMINER GORDON, BRIAN R				
ART UNIT		PAPER NUMBER		
1797				
MAIL DATE		DELIVERY MODE		
07/14/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/606,835

Applicant(s)

NAKAMURA ET AL.

Examiner

Brian R. Gordon

Art Unit

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3 and 6-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3, 11 and 12 is/are rejected.
- 7) ☒ Claim(s) 6-10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6-27-03 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 25, 2008 has been entered.

Response to Arguments

2. Applicant's arguments filed June 20, 2008 have been fully considered but they are not persuasive.

During the interview held on May 30, 2008 the examiner stated applicant should review the specification to ensure the proposed amendments are fully supported by the original specification. The amendments contain new matter as explained herein.

There is no support for the computer management system 11, functioning as claimed.

As to claim 3, there is no antecedent basis that an analyzing apparatus has been stopped. As such it is unclear how the management computer can restore operation of an analyzing apparatus when it has not been claimed that an analyzing apparatus has been previously stopped.

It should be noted that the specification discloses the apparatus as comprising multiple computers (11-17) all of which have different functions.

Specification

3. The amendment filed June 25, 2008 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: see Response to Arguments and 112 Rejection.
4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: There is appears to be no antecedent basis in the specification for the limitations of claims 6-7. Claims 7-10, respectively refer to a "mechanism" or "means". It is hereby requested applicant provide where each "mechanism" and "means" are supported in the specification and specify what specific element of the device is considered equivalent to such "mechanism" or "means". It appears that the same element of the invention is equivalent to a number of the "means". For example computer 12 stops the analyzing apparatus and also functions as the means of clam 8 (see paragraph 51 of publication).

To ensure the claims are fully supported by the specification and the claims are not directed to new matter, the examiner hereby requests applicant to fully disclose where all the claim limitations are supported in the original specification.

Claim Rejections - 35 USC § 112

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5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 11-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Applicant has as added new claim 11 and asserts the claim is supported by original claim 4. As admitted by applicant on page 6 of the arguments, original claim 4 was directed to an unspecified mechanism which instructs the control separation means. The claim does not specify that such mechanism and/or separation means is the management computer. The specification at paragraph 0048 (publication 2004/0091396 of instant application) states computer 12 temporarily stops the analysis of a new sample at the module.

Applicant asserts the portion of claim 11 directed to the management computer is supported at page 15. The examiner respectfully disagrees. Registering the module 5 is the not the same as registering particular reagents in the analyzing system. Furthermore there is no support for the computer 11 being programmed to stopping an analyzing apparatus as claimed.

As to claim 12, the specification at page 14 does not mention "a reagent which is not registered" or the "management computer" functions as claimed. The only computer

mentioned in the last paragraph of page 14 and on page 17 is computer 12 not management computer 11.

Applicant has claimed the management computer is programmed to perform a number of functions, however such functions are not disclosed as being controlled by management computer in the specification.

The new matter should be canceled from the claims and specification.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 3 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. Claim 3 recites the limitation "said management computer" in line 5. There is insufficient antecedent basis for this limitation in the claim. Furthermore it is unclear how an analyzing apparatus can be restored when it has not been previously claimed that such an apparatus has been previously stopped.

Claim 11 states the management computer is programmed to register the particular reagents in the analyzing system in advance. In advance to what? It is unclear what is meant by "in advance".

.Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian R. Gordon whose telephone number is 571-272-1258. The examiner can normally be reached on M-F, 1st Fri. Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brian R Gordon/
Primary Examiner
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